

SEALED**FILED**

DEC 01 2014

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,) **Case No. 14-CR-153-GKF**
)
Plaintiff,) **FILED UNDER SEAL**
)
v.) **SUPERSEDING INDICTMENT**
) **[COUNT 1: 18 U.S.C. § 1349 –**
JAMES DOUGLAS PIELSTICKER,) **Conspiracy to Commit Bank Fraud;**
) **COUNTS 2 through 16: 18 U.S.C.**
Defendant) **§ 1344 - Bank Fraud; Forfeiture**
) **Allegation: 18 U.S.C. § 982(a)(2)(A) –**
) **Bank Fraud Forfeiture;**
) **COUNT 17: 18 U.S.C. § 371 –**
) **Conspiracy to Commit Tax Fraud;**
) **COUNTS 18 through 20: 26 U.S.C.**
) **§ 7201 - Tax Evasion;**
) **COUNTS 21 through 23: 26 U.S.C.**
) **§ 7202 - Failure to Truthfully Account**
) **for and Pay Over Withholding and**
) **F.I.C.A. (Social Security) Taxes]**

THE GRAND JURY CHARGES:

COUNT ONE
[18 U.S.C. § 1349]

At all times relevant to this Indictment:

INTRODUCTORY ALLEGATIONS

Individuals and Entities

1. **JAMES DOUGLAS PIELSTICKER** (“Defendant **PIELSTICKER**”) resided in Tulsa, Oklahoma. He was the President and Chief Executive Officer of Arrow Trucking Company until December of 2009.
2. Arrow Trucking Company, Inc. (“Arrow Trucking”), was an Oklahoma corporation with its primary place of business in Tulsa, Oklahoma.

3. Megan Corporation, Piel Corporation, Arrow Truck Real Estate Company, Arrow Trucking Logistics, Inc., and other entities were affiliated with each other and Arrow Trucking (“the Companies”).

4. Transportation Alliance Bank, Inc., also known as TAB, was a financial institution with its principal place of business in Ogden, Utah. TAB’s deposits were insured by the Federal Deposit Insurance Corporation. TAB entered into an Accounts Receivable Purchase and Security Agreement with Arrow Trucking (“the Agreement”). Defendant **PIELSTICKER** signed the Agreement on behalf of Arrow Trucking. Pursuant to the Agreement, Arrow Trucking agreed to sell certain accounts receivable to TAB.

5. Co-conspirator A, a person whose identity is known to the Grand Jury, was initially employed by Arrow Trucking as Controller and subsequently as Chief Financial Officer.

Incorporation of Introductory Allegations by Reference

6. Introductory allegations Paragraphs 1 through 5 are specifically made a part of each count of this Superseding Indictment.

THE OBJECT OF THE CONSPIRACY

7. From on or about May 4, 2009, to on or about December 22, 2009, in the Northern District of Oklahoma and elsewhere, Defendant **PIELSTICKER**, Co-conspirator A, and others both known and unknown to the Grand Jury (“the

Conspirators”), knowingly and intentionally conspired to commit Bank Fraud offenses in violation of Title 18, United States Code, Section 1344.

MANNER AND MEANS

8. The Conspirators used the manner and means identified below, among others, to achieve the object of the conspiracy.

9. It was part of the conspiracy that the Conspirators would and did create, and caused to be created, false and fraudulent invoices that inflated amounts due and owing Arrow Trucking.

10. It was further a part of the conspiracy that the Conspirators would and did submit, and cause to be submitted, false and misleading information to TAB, including false and misleading invoice data. This data included information concerning Arrow Trucking invoices purporting to represent accounts receivable due and owing Arrow Trucking. This information was transmitted electronically to TAB by Arrow Trucking on a daily basis. Based, in part, on this false and misleading information, TAB sent funds to Arrow Trucking.

11. It was further a part of the conspiracy that the Conspirators would and did conceal from TAB the Scheme in a variety of ways. As part of this concealment, the Conspirators caused Arrow Trucking employees to pretend to be Arrow Trucking customers in telephone conversations involving TAB representatives.

All in violation of Title 18, United States Code, Section 1349.

COUNTS TWO THROUGH SIXTEEN
[18 U.S.C. § 1344]

THE SCHEME

12. The allegations of Paragraphs 6 through 11 of Count One are incorporated herein with respect to each of Counts Two through Sixteen.

13. From on or about May 4, 2009, to on or about December 22, 2009, in the Northern District of Oklahoma and elsewhere, Defendant **PIELSTICKER**, executed and attempted to execute a scheme and artifice to defraud and to obtain moneys, funds, credits, assets, and other property owned by and under the custody and control of TAB, a financial institution, by means of materially false and fraudulent pretenses, representations, and promises (the "Scheme").

14. It was part of the Scheme that Defendant **PIELSTICKER** provided and caused to be provided, materially false, fraudulent, and misleading information concerning Arrow Trucking invoices to TAB. The false and misleading information included inflated amounts owed to Arrow Trucking. As a result of the false and misleading information, TAB paid in excess of what was owed pursuant to the Agreement.

EXECUTIONS OF THE SCHEME

15. On or about the dates stated below, in the Northern District of Oklahoma and elsewhere, Defendant **PIELSTICKER** executed, and attempted to execute, the Scheme by submitting, and causing to be submitted, false, fraudulent, and misleading invoice data to TAB for the purpose of obtaining moneys, funds, credits, assets, and other

property owned by and under the custody and control of TAB. This invoice data included inflated amounts due and owing Arrow Trucking, when in fact the actual amounts owed were materially less than that represented.

| COUNT | DATE |
|----------|--------------------|
| Two | June 23, 2009 |
| Three | June 26, 2009 |
| Four | June 29, 2009 |
| Five | June 30, 2009 |
| Six | July 2, 2009 |
| Seven | August 24, 2009 |
| Eight | September 16, 2009 |
| Nine | September 25, 2009 |
| Ten | September 28, 2009 |
| Eleven | September 29, 2009 |
| Twelve | October 1, 2009 |
| Thirteen | October 13, 2009 |
| Fourteen | October 26, 2009 |
| Fifteen | November 23, 2009 |
| Sixteen | December 8, 2009 |

All in violation of Title 18, United States Code, Section 1344.

FORFEITURE ALLEGATION
[18 U.S.C. § 982(a)(2)(A)]

The allegations contained in Counts One through Sixteen of this Superseding Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 982(a)(2)(A).

Upon conviction of the bank fraud conspiracy and bank fraud scheme alleged in Counts One through Sixteen of this Superseding Indictment, as part of his sentence, the defendant, **JAMES DOUGLAS PIELSTICKER**, shall forfeit to the United States any property constituting, or derived from, proceeds the defendant obtained directly or indirectly, as a result of the conspiracy and scheme, including, but not limited to:

MONEY JUDGMENT

A sum of money in an amount of at least \$15,000,841.32, representing proceeds obtained as a result of the bank fraud conspiracy and bank fraud scheme.

Pursuant to Title 21, United States Code, Section 853(p), as adopted by Title 18, United States Code, Section 982(b), the defendant shall forfeit substitute property, up to the value of the property described above if, by any act or omission of the defendant, the property described above, or any portion thereof, cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third party; has been placed beyond the jurisdiction of the court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty.

All pursuant to Title 18, United States Code, Section 982(a)(2)(A).

COUNT SEVENTEEN
[18 U.S.C. § 371]

THE OBJECT OF THE CONSPIRACY

16. From on or before January 1, 2009, to on or about December 22, 2009, in the Northern District of Oklahoma, and elsewhere, Defendant **JAMES DOUGLAS PIELSTICKER**, Co-conspirator A, and others both known and unknown to the Grand Jury (hereinafter “the Conspirators”) did unlawfully, voluntarily, intentionally and knowingly conspire, combine, confederate, and agree to defraud the United States by impeding, impairing, obstructing, and defeating the lawful government functions of the Internal Revenue Service of the Department of the Treasury, an agency of the United States, in the ascertainment, computation, assessment, and collection of revenue, that is, federal taxes, in violation of Title 18, United States Code, Section 371.

MANNER AND MEANS

17. The Conspirators used the manner and means identified below, among others, to achieve the object of the conspiracy.

18. The Conspirators failed to file, and caused not to be filed, Arrow Trucking’s Employer’s Quarterly Federal Tax Returns, Form 941, for the quarters ending March 31, 2009, June 30, 2009 and September 30, 2009.

19. The Conspirators failed to pay over, and caused not to be paid over, federal income taxes withheld from Arrow Trucking employees and owed by Arrow Trucking for the quarters ending March 31, 2009, June 30, 2009 and September 30, 2009.

20. The Conspirators caused payments to be made from non-payroll accounts

to Defendant **PIELSTICKER** and for his benefit.

21. The Conspirators caused nonbusiness expenditures, including various conspirators' personal expenses, to be paid by Arrow Trucking that were not properly accounted for and reported to the United States, including on Forms W-2 or Forms 1099.

OVERT ACTS

22. In furtherance of said conspiracy, and to effect the objects thereof, the overt acts identified below, among others, were committed by Defendant **PIELSTICKER** and other Conspirators in the Northern District of Oklahoma and elsewhere.

23. On or about January 15, 2009, Arrow Trucking issued check number 072837 in the amount of \$10,000 payable to Kleinco Construction LLC for the benefit of Defendant **PIELSTICKER**.

24. On or about March 25, 2009, Arrow Trucking made a payment of \$5,055 to Bruce G. Webber for the benefit of Defendant **PIELSTICKER**.

25. On or about April 1, 2009, Arrow Trucking made a payment of \$5,055 to Bruce G. Webber for the benefit of Defendant **PIELSTICKER**.

26. On or about May 14, 2009, Arrow Trucking made a payment of \$65,000 to Defendant **PIELSTICKER**.

27. On or about June 18, 2009, Arrow Trucking paid approximately \$36,380 to Porsche Payment Center on behalf of Defendant **PIELSTICKER**.

28. From on or about September 9, 2009 to on or about September 28, 2009, Arrow Trucking made payments to AIU Holding on behalf of Defendant **PIELSTICKER**.

29. On or about November 4, 2009, Defendant **PIELSTICKER** caused to be opened bank account number xxx-696-6 at Citizen's Bank of Tulsa ("Citizen's Bank").

30. Between or about November 4, 2009, and December 8, 2009, Defendant **PIELSTICKER** caused hundreds of thousands of dollars from Arrow Trucking to be deposited into Citizen's Bank account number xxx-696-6.

31. On or about November 5, 2009 Defendant **PIELSTICKER** caused a \$10,000 payment to be transmitted by wire to his former wife from Citizen's Bank account number xxx-696-6.

32. On or about December 1, 2009, Defendant **PIELSTICKER** caused a \$10,000 payment to be transmitted by wire to his former wife from Citizen's Bank account number xxx-696-6.

33. During the year 2009, Arrow Trucking made payments to FIA Card Services for the benefit of Defendant **PIELSTICKER**.

34. During the year 2009, Arrow Trucking made payments to The Events Company for Defendant **PIELSTICKER**'s wedding.

35. During the year 2009, Arrow Trucking made payments related to a Bentley automobile for the benefit of Defendant **PIELSTICKER**.

36. During the year 2009, Arrow Trucking made payments related to a Maserati automobile for the benefit of Defendant **PIELSTICKER**.

All in violation of Title 18, United States Code, Section 371.

COUNT EIGHTEEN
[26 U.S.C. § 7201]

37. During the calendar year 2007, Defendant **PIELSTICKER** had and received taxable income, and upon that taxable income there was a substantial income tax due and owing. Well knowing and believing the foregoing facts, from on or about January 1, 2007, and continuing to on or about September 28, 2008, within the Northern District of Oklahoma and elsewhere, Defendant **PIELSTICKER** did willfully attempt to evade and defeat the individual income taxes due and owing by him to the United States of America for the calendar year 2007, by committing various affirmative acts of evasion, including: by preparing and causing to be prepared, and by signing and causing to be signed, a false and fraudulent 2007 U.S. Individual Income Tax Return, Form 1040, which was filed with the Internal Revenue Service; by causing the Companies to pay personal expenses on his behalf; by causing his employer to underreport his wages, tips, and other compensation on the 2007 Form W-2; and otherwise concealing and attempting to conceal from all proper officers of the United States of America his true and correct income.

All in violation of Title 26, United States Code, Section 7201.

COUNT NINETEEN
[26 U.S.C. § 7201]

38. During the calendar year 2008, Defendant **PIELSTICKER** and his wife had and received taxable income, and upon that taxable income there was a substantial income tax due and owing. Well knowing and believing the foregoing facts, from on or about January 1, 2008, and continuing to on or about October 18, 2009, within the Northern District of Oklahoma and elsewhere, Defendant **PIELSTICKER** did willfully attempt to evade and defeat the individual income taxes due and owing by him and his wife to the United States of America for the calendar year 2008, by committing various affirmative acts of evasion, including: by preparing and causing to be prepared, and by signing and causing to be signed, a false and fraudulent joint 2008 U.S. Individual Income Tax Return, Form 1040, on behalf of himself and his wife, which was filed with the Internal Revenue Service; by causing the Companies to pay personal expenses on his behalf; by causing his employer to underreport his wages, tips, and other compensation on the 2008 Form W-2; and otherwise concealing and attempting to conceal from all proper officers of the United States of America his and his wife's true and correct income.

All in violation of Title 26, United States Code, Section 7201.

COUNT TWENTY
[26 U.S.C. § 7201]

39. During the calendar year 2009, Defendant **PIELSTICKER** and his wife had and received taxable income, and upon that taxable income there was a substantial income tax due and owing. Well knowing and believing the foregoing facts, from on or about January 1, 2009, and continuing to on or about March 14, 2011, within the Northern District of Oklahoma and elsewhere, Defendant **PIELSTICKER** did willfully attempt to evade and defeat the individual income taxes due and owing by him to the United States of America for the calendar year 2009, by committing various affirmative acts of evasion, including: by causing the Companies to pay personal expenses on his behalf; by causing his employer to underreport his wages, tips, and other compensation on the 2009 Form W-2; by preparing and causing to be prepared, a false and fraudulent draft joint 2009 U.S. Individual Income Tax Return, Form 1040, on behalf of himself and his wife, which was submitted to the United States Bankruptcy Court; and otherwise concealing and attempting to conceal from all proper officers of the United States of America his true and correct income.

All in violation of Title 26, United States Code, Section 7201.

COUNTS TWENTY-ONE THROUGH TWENTY-THREE
[26 U.S.C. § 7202]

40. During the period January 1, 2009, through December 22, 2009, Defendant **PIELSTICKER** caused Arrow Trucking to make thousands of dollars of expenditures for his and others' personal benefit while, at the same time, failing to pay over to the Internal Revenue Service payroll tax withheld from the wages of Arrow Trucking's employees. For example, Defendant **PIELSTICKER** caused Arrow Trucking to spend thousands of dollars for vehicles for Defendant **PIELSTICKER** and members of his family, expenses associated with Defendant **PIELSTICKER**'s personal residence, and other personal expenses.

Employment Tax Withholding

41. At all times relevant to this Indictment, Arrow Trucking withheld taxes from employees' wages, including federal income taxes, medicare and social security taxes (often referred to as Federal Insurance Contribution Act or "F.I.C.A." taxes). These taxes will be referred to in this Indictment collectively as "payroll taxes."

42. Arrow Trucking was required to make deposits of payroll taxes on a periodic basis. In addition, Arrow Trucking was required to file an Employer's Quarterly Federal Income Tax Return (Form 941) following the end of each calendar quarter, setting forth the total amount of wages and other compensation subject to withholding; the total amount of income tax withheld; the total amount of social security and Medicare taxes due; and the total tax deposits.

43. As the President of Arrow Trucking, Defendant **PIELSTICKER** was a “responsible person,” that is, he had the corporate responsibility to collect, truthfully account for, and pay over Arrow Trucking’s payroll taxes.

44. Throughout the calendar years 2001 through 2009, Arrow Trucking withheld payroll taxes from its employees’ wages. However, Arrow Trucking did not timely pay over to the Internal Revenue Service payroll taxes withheld from its employees’ 2009 wages.

45. Beginning in 2009, Arrow Trucking further failed to file quarterly employment tax returns (Form 941) with the Internal Revenue Service. Each Form 941 was due to be filed at the end of the month following the end of each calendar quarter. For example, the Form 941 for the first quarter of 2009 was due on or before April 30, 2009, since the first calendar quarter ended on March 31, 2009.

46. Altogether, during the three calendar quarters alleged in Counts Twenty-One through Twenty-Three of this Indictment, Arrow Trucking failed to timely account for and pay over approximately \$ 5,267,392.57 in payroll taxes.


47. For the quarters identified below, in the Northern District of Oklahoma, and elsewhere, Defendant **PIELSTICKER**, did willfully fail to truthfully account for and pay over to the Internal Revenue Service payroll taxes on behalf of Arrow Trucking and its employees, with each calendar quarter constituting a separate count of this Indictment:

| COUNT | DATE FORM 941 DUE | QUARTER | PAYROLL TAXES DUE AND OWING |
|--------------|----------------------|---------------------------|--------------------------------|
| Twenty-One | April 30, 2009 | First Quarter of 2009 | \$1,823,854.43 |
| Twenty-Two | July 31, 2009 | Second Quarter of 2009 | \$1,824,067.16 |
| Twenty-Three | October 31, 2009 | Third Quarter of 2009 | \$1,619,470.98 |

All in violation of Title 26, United States Code, Section 7202.

DANNY C. WILLIAMS, SR.
UNITED STATES ATTORNEY

A TRUE BILL



JEFFREY A. GALLANT
Assistant United States Attorney

/s/ Grand Jury Foreperson
Grand Jury Foreperson